

LICENSEE

Balancing effective public safety, excellent customer service and a reliable source of revenue.

Summer 2006 Volume 12, Number 4 www.abc.virginia.gov

Wilcox Moves From Sweeping the Porch to a Successful ABC Licensee

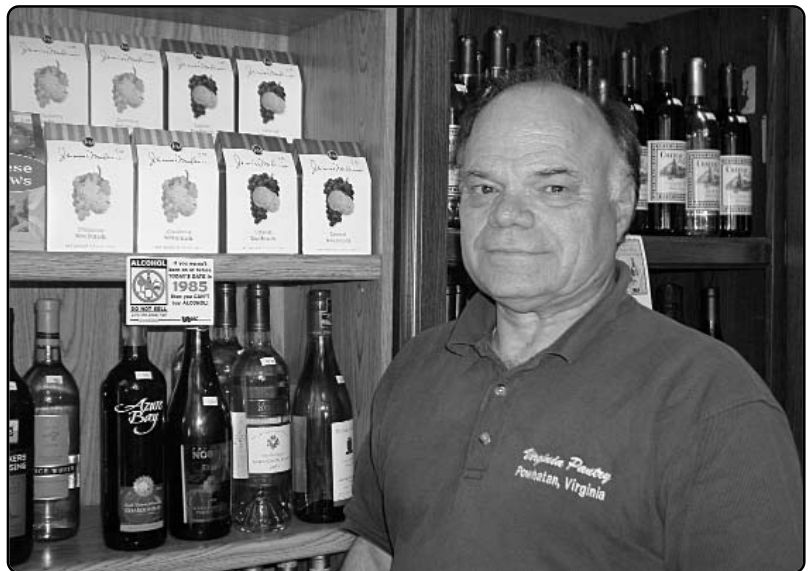
by Kristy Smith, PR Specialist

At the age of 12, Bobby Wilcox's first job was sweeping the porch of Lukhard's Finer Foods on Libbie Avenue in Richmond. He then moved on to become a bagger, shelf stocker and anything else the Lukhard family needed him to do. He was paid 25 cents a day, but only under one condition: "I couldn't come back to bother Mr. Lukhard until the following day," Wilcox said while laughing as he reminisced.

In 1977, after finishing college at East Carolina University and receiving a degree in business administration, Wilcox returned to Richmond to work for the Lukhard's and was hired as a supervisor of all six stores that the Lukhards owned. One year, tragedy struck the Lukhard family and they lost their daughter, who had two small children, to leukemia. After this happened, they decided to sell their business to none other than the once 12-year-old boy who used to sweep the front porch of the store, Bobby Wilcox.

Since 1989, Wilcox has been owner of Lukhard's; a wine-and-gift shop now located in Powhatan, and has also been an ABC licensee. Currently having an off-premise wine and beer license, he is 18 months into the process of getting an on-premise wine and beer license as well.

Wine and beer, or beer only, may be consumed in restaurants with an on-premise license, while an off-premise license allows wine and beer, or beer only, to be sold for carry-out. "The customers come in and don't understand why they can't have a glass of wine with their sandwich," said Wilcox. A tea-room, Becky's Tea Café, was added to Lukhard's Pantry serving signature soups, salads, sandwich specialties, desserts and of course, tea. "I try to explain to them that my current ABC license only allows for wine and beer to be consumed off premise, but hopefully that will change soon." Wilcox, his co-proprietor wife, Mary Anna Wilcox, and Becky's Tea Café proprietor, Becky Lillywhite, are currently working on expanding the menu of



Bobby Wilcox poses inside of the Lukhard's Virginia Pantry

Becky's by adding vegetables to comply with ABC food regulations for obtaining an on-premise license.

Wilcox has been very successful in many aspects of his business. He has received the Virginia Wine Retailer of the Year award twice, six Gold Triple Cluster Awards and when Lukhard's was in the grocery store business, Wilcox received the Governor's Grocer of the Year Award for promoting Virginia products. "We (Lukhard's) were pioneers for promoting Virginia wines," said Wilcox. Not only have they been pioneers for promoting Virginia products, but they were also the third store in Virginia to get a sample-tasting license from the ABC Board.

You may ask what other achievements has Wilcox experienced? Well, he has an almost perfect history with ABC in his 17-year-long tenure as a licensee.

"I am still upset to this day about the one violation we received," declared Wilcox about the underage buyer sale that happened two years ago. "We accidentally read the year wrong on the license and it was an honest mistake on our part, but it has made us realize that it only takes one minor mistake to mess up your record."

Wilcox now practices three simple rules when a buyer comes in his store for alcohol. "I take my time in examining the date of birth on the license, I ask questions to the buyer about their year of birth and address

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Enforcement Update



*Frank Monahan
Director of ABC
Bureau of Law
Enforcement*

The Bureau of Law Enforcement is continuously striving to provide excellent customer service to our licensees. Unfortunately we have had a large number of vacancies within the Bureau, which have impacted our service levels. That is about to change. I have placed recruitment for special agents at the top of my priority list, and have also advertised to fill our current vacant supervisory positions. The promotional process will move forward with an anticipated outcome of strengthening our first line field supervision. I have directed my people to move forward at full speed to get the vacancies and promotions filled, but I must be clear that it is a long hiring and initial training process. During this time of change, I ask for your patience and of course, if you know of anyone interested in becoming a Special Agent, that you direct them to our Web site. It is a truly honorable and rewarding profession.

With summer arriving and activity increasing, I encourage you to continue your diligence in adhering to all license requirements and mandates. Remember, your efforts protect all citizens and could save lives. This is particularly true with underage drinking. During the summer season there will be increased and constant attempts by our young people to obtain alcohol.

As you all know, with cutting edge improved technology and unscrupulous business owners, there is a new market for obtaining false IDs that are authentic-looking and without appropriate training, can be mistaken as acceptable identification. The use of false IDs by underage persons to buy controlled products is a widespread and serious problem. As licensees, I ask for you to remain vigilant in detecting false IDs and encourage you to take advantage of all our training programs available to help you better recognize them. Also remember, if you are unsure of any type of ID, it is better to turn down the sale to the customer than risk a violation that could result in a fine, suspension, or even loss of your ABC license.

As a reminder, the acceptable types of

identification for determining age are: valid driver's license issued by any state or Washington, D.C., armed forces identification card, U.S. passport, foreign government visa, or a valid photo identification card issued by Virginia Department of Motor Vehicles.

We are all in the business of serving and protecting our public. I believe it is better to be proactive rather than reactive in our efforts. I encourage you to contact your agent and to connect with him or her. They are available to assist you with training opportunities, compliance information and any other questions you may have. Understanding the rules and regulations and helping you to become more compliant is of utmost importance to our agents within the Bureau.

To locate your agent, visit www.abc.virginia.gov and select the Licensee Resources section from the top menu. Select the Find Your Special Agent link from the left menu and contact the office nearest you.

I appreciate the enthusiasm and support you have displayed in working to improve our compliance rates, and look forward to partnering further and continuing our success in public safety.

2006 General Assembly By Curtis Coleburn, Chief Operating Officer

The 2006 session of the Virginia General Assembly addressed a number of alcoholic beverage-related issues, ranging from approval of new sampling and other promotional opportunities for manufacturers, wholesalers, and retailers, to prohibition of alcohol-vaporizing machines. In addition, as in most years, they created a few new varieties of licenses that ABC may issue.

Of major interest to industry members are **Senate Bill 685** and **House Bill 512**, each of which deal with promotions at on-premises establishments.

House Bill 512, supported by Virginia's farm wineries, addressed tastings of wine and beer on the premises of licensees holding on- or on- and off-premises wine and beer privileges. Prior law restricted tasting events at which

samples of beer and wine could be given away and manufacturer's participation in such events to gourmet shop licensees. Under the new law, retailers with on- or on- and off-premises wine and beer licenses may conduct tasting events, at which samples of wine and beer may be given or sold to consumers. Sample sizes are limited to two ounces of wine or four ounces of beer. Wineries, farm wineries, and breweries may participate at such tasting events, to include pouring of the samples.

Senate Bill 685 enacted a wider range of promotional opportunities. It provides that on-premise beer, beer and wine, or mixed beverage licensees may give samples of products they may legally sell to consumers. Samples of wine are limited to two ounces, of beer to four

ounces, and of spirits to one-half ounce. Customers may be given no more than two samples per visit. In addition, manufacturers and wholesalers may conduct tasting events on the premises of such retail licensees. To conduct such an event, employees of the manufacturer or wholesaler or their authorized representatives must be present, and an authorized representative who is not an employee of the manufacturer or wholesaler must obtain an annual permit from ABC. During such an event, up to 12 ounces of beer, 5 ounces of wine, or 1 ½ ounces of spirits may be purchased by the sponsoring manufacturer or wholesaler from the retailer for each participating consumer. Spirits samples may not exceed one-half ounce each, and no more than three such samples may be given to any one customer. A manufacturer or wholesaler

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2006 General Assembly, continued from pg. 2

may spend no more than \$100 per 24-hour period at any one licensee's for such events. All alcoholic beverages served under this section must be purchased from the retail licensee, and must be served by the retailer's employees.

Other provisions of Senate Bill 685 allow manufacturers to sell brand-identified service items, such as glassware, to retailers, and allow manufacturers and wholesalers to give novelty and specialty items having a wholesale value of not more than \$10, such as caps and t-shirts, to retail employees. The manufacturer or wholesaler may give one item per employee present at the time the novelties are delivered, and the items may thereafter be displayed on the premises. A final feature of the bill clarifies that the popular practice of serving a "flight" of wines or beers, an assortment of not more than five samples, does not violate "happy hour" rules.

House Bill 1208 and Senate Bill 396 are two identical pieces of legislation which clear up an ambiguity in the law related to service of alcohol to those under the legal drinking age in a private home. The new law clarifies that a person in his own home may provide alcoholic beverages to his family members under 21, but guests provided alcohol must be of legal age, unless their parent, guardian, or spouse 21 or older accompanies them.

House Bills 113 and 1210 strengthen the punishments for underage drinking and providing alcohol to those under 21. House Bill 1210 provides a mandatory driver's license suspension of at least six months for any 18-, 19-, or 20-year-old convicted of underage

consumption or possession of alcohol, and House Bill 113 provides a mandatory driver's license suspension of up to one year for anyone convicted of providing alcohol to an underage person.

House Bill 601 started out as a bill to create a new, lower-cost, license for small wine wholesalers, but was amended to also address several Virginia statutes, which were held unconstitutional by a federal judge last year. The new wholesale license provision provides a license tax break for wine wholesalers selling up to 30,000 gallons of wine per year. The lowest license tax under the former law was \$930 annually, but the new law will allow small wine wholesalers to pay \$185 per year. In addition, the bill as passed removed the privilege of retailers and farm wineries to deliver product to consumers, as well as the privilege of farm wineries and breweries to sell their products directly to retailers. Another amendment removes a provision of the direct shipment law passed in 2003 that created a presumption that Virginia retailers had permission from brand owners to ship wine or beer to consumers. Now all persons desiring to ship beer or wine to Virginia consumers will have to provide ABC the brand owner's consent to such shipments.

Senate Bill 100 dealt with a controversial new method of alcoholic beverage consumption—the use of vaporizing devices. Inventors have designed devices, which turn alcoholic beverages into vapor, which can be inhaled instead of ingested. The theory is that the alcohol may absorb into the bloodstream quicker. The new law prohibits the sale or use of such devices in Virginia.

House Bill 648

Virginia's only "farm distillery" will soon be home to a state ABC store, thanks to the provisions of House Bill 648. This legislation authorizes ABC to establish a state store on the premises of a distillery licensee and enter into an agreement with the distiller to allow the distiller to operate the store on behalf of ABC. The law limits this arrangement to distillers who produce at least 51 percent of the agricultural products used in the manufacture of its alcoholic beverages on their farm.

Several other bills dealt with either new license categories or the privileges of existing ones. House Bill 321 allows the issuance of on-premises wine and beer licenses to "limited service" hotels, hotels which may not have full-service restaurants on the premises, but serve at least one meal per day.

Senate Bill 386 creates a new "motor car sporting event" license, similar to the current equine sporting event license. This license will allow attendees at car racetracks to bring their own lawfully acquired alcoholic beverages to the track, but the track itself will not be authorized to sell alcohol.

House Bill 1448 will allow residents at "continuing care communities" to bring their own alcohol into the licensed restaurants located at such facilities. Previously, residents could not bring alcohol into the licensed premises.

Finally, Senate Bill 327 codifies current practice, clarifying that "other designated areas" (usually outside dining patios) of restaurants do not have to be directly contiguous to the licensed establishment.

For a more detailed explanation of any of the above bills, go to <http://legis.state.va.us/>, enter the bill number in the block on the left and select go.

Licensee violations and penalties — February 2006 - May 2006

Compiled by Public Affairs

As a result of ABC Bureau of Law Enforcement investigations and the ABC hearings process, the following businesses received a minimum sanction of a 10 to 30-day suspension and/or at least a \$1,000 fine. These sanctions were selected

randomly from the final Board Orders issued from February 2006 to May 2006. The sanctions are reported to raise the awareness of licensees by informing them of the potential penalties for violating Virginia's ABC Laws and Regulations. It is

the hope that making licensees aware of these major violations will serve as a deterrent. Most licensed establishments operate clean and safe businesses as encouraged by the Virginia ABC Board.

Licensee	Violation	Penalty
Club/Norfolk	Licensee is so located to violate peace and good order; maintained noisy or disorderly establishment; allowed disorderly conduct on premises	Surrendered license voluntarily and waived rights to further hearings
Convenience/Grocery Store/Amherst	Sold to underage person	Accepted \$2,000 fine, first offense
Convenience/Grocery Store/Dale City	Failed to have designated manager present; sold to underage person	60 days suspended or \$5,000 fine and 15 days suspended
Grocery Store/South Riding	Sold to underage person	Accepted 3 days suspension and \$5,000 fine; third offense
Grocery Store/Chester	Not operating as a grocery store	Surrender license and pay \$500 fine
Restaurant/Springfield	Sold wine without permission of the Board as to content, label or container	Accepted \$1,000 fine
Restaurant/Pearisburg	Sold to intoxicated person; allowed consumption of alcohol beverages by intoxicated person	25 days suspended or \$2,000 fine
Restaurant/South Boston	Employed a person who was a convicted felon	Accepted \$1,500 fine
Restaurant/Grafton	Licensee cannot demonstrate financial responsibility	25 days suspended or \$1,000 fine and to continue tax payments
Restaurant/Manassas	Failed to submit annual review	Revoked
Restaurant/Roanoke	Defrauded or attempted to defraud the Board; kept unauthorized alcohol; concealed the sale or consumption of alcohol; licensee refilled bottles; sold and served alcohol which was not the same as ordered by the purchaser	60 days suspended or \$5,000 fine and 30 days suspended; probation for 1 year; regular audits of purchases & sales by enforcement; take MART classes
Restaurant/Virginia Beach	Ceases to qualify as a restaurant; failed to keep complete, accurate records	Revoked
Restaurant/Petersburg	Sold to underage; failed to have designated manager present; failed to keep complete, accurate records; kept alcohol not authorized to sell	35 days suspended or \$2,500 fine and 20 days suspended

Licensee violations and penalties (continued)

Licensee	Violation	Penalty
Restaurant/Norfolk	Licensee is not legitimate owner of business; issued bad check to Board	Revoked
Restaurant/Urbanna	Failed to keep complete, accurate records; licensee defrauded or attempted to defraud the Board and Town of Urbanna, VA Dept. of Taxation; failed to submit annual review	60 days suspended
Restaurant/Petersburg	Failed to keep complete, accurate records; licensee did not confirm to health regulations of Health Dept.; does not qualify as restaurant; licensee kept or allowed to be kept alcoholic beverages not authorized to sell	25 days suspended or \$1,000 fine and 15 days suspended
Restaurant/West Point	Licensee allowed lewd or disorderly conduct; so located related to peace & good order; licensee not legitimate owner; licensee failed to follow restrictions on time restraints on alcohol sales 11 p.m. Sunday thru Monday; place became a meeting place or rendezvous for illegal users of narcotics; licensee illegally possessed, distributed, sold or used or allowed an employee to illegally possess, distribute, sell or use marijuana on premises; licensee allowed striptease acts, or the like on premises; allowed entertainers to appear nude or partially nude on premises	License will be surrendered or revoked; licensee shall not attempt to reinstate license; licensee shall not file for new license without permission from Enforcement special agent in charge; penalties shall be in lieu of any fines

Lukhard's, continued from page 1

just to make sure and lastly, I don't make the sale if I'm not 100 percent satisfied that the buyer is of legal age," said Wilcox. "It's just too easy to slip up and sell to an underage buyer."

With only the three proprietors working the registers at the pantry, they are all aware to watch out for customers attempting to buy alcohol that appear to be underage. "We have a system and we always double-check with each other before we make the sale," remarked Wilcox. "I had a customer who was 21 years old and one day. I just wasn't comfortable with making the sale, so it was my ultimate decision not to sell him the alcohol."

While he takes extra precautions to not sell to an underage buyer, Wilcox also recognizes that communication with his

ABC special agent tremendously helps him succeed as a licensee.

"You must establish that line of communication with your agent," remarked Wilcox. "As a licensee, you will not be able to fully understand all of ABC's rules and regulations, and that's where your agent comes in handy."

Whenever he has questions or is unsure if he can post certain alcohol advertisements in his store, Wilcox knows he can pick up the telephone and call his special agent. "213-4400, I know that number by heart," claimed Wilcox as he recited at the top of his head the telephone number to ABC's Region 6 office. After moving his store location just 50 feet from the previous location, Wilcox had to go through the ABC license application process all over again. "It was like

starting all over again," remarked Wilcox. "I'm so thankful for the agents who helped me and made sure everything was done correctly."

Jim Pinette, the Special Agent in Charge for the Richmond South region, thinks very highly of Wilcox and appreciates his mind-set towards being compliant with ABC. "Bob Wilcox is an outstanding example of what we want to have as a licensee at ABC," Pinette stated.

When asked what advice he would give other licensees, Wilcox's answer was simple: "Get with your agent and establish that common-ground networking with them," he said. "ABC is not always out to get you as a licensee, the agency is here to help you and the public."

Summer MART Registration

Managers' Alcohol Responsibility Training (MART) summer classes are currently open for registration. Classes are held throughout the state free of charge, but managers are encouraged to register early. All classes will run six hours and will give managers an opportunity to clarify myths and receive answers directly from ABC special agents.

MART is designed to help on- and off-premise licensee managers gain a more thorough understanding of Virginia's alcohol-related laws and regulations. A team of special agents, licensee managers and ABC education staff has developed the training class to meet your needs. In addition to an overview of Virginia's laws, licensee managers will learn about management related issues, including checking IDs, employing minors and using proper advertising inside the establishment. Managers can register and find more information about other training programs offered on the ABC Web site at www.abc.virginia.gov or by contacting an ABC Regional office.

2006 Schedule

August 9 — Charlottesville Department of Forestry
10 a.m. – 4 p.m.

August 15 — Lynchburg Regional ABC Office
10 a.m. – 4 p.m.

August 16 — Chesapeake Regional ABC Office
10 a.m. – 4 p.m.

August 16 — Hampton, Old Dominion University/Peninsula Higher Education Center
10 a.m. – 4 p.m.

August 16 — Richmond/Henrico County Police Department Training Center
10 a.m. – 4 p.m.

August 22 — Colonial Heights Hilton Garden Inn Richmond South
10 a.m. – 4 p.m.

August 23 — Alexandria Regional ABC Office (Fairfax County)
10 a.m. – 4 p.m.

August 29 — Galax Public Library
9 a.m. – 3 p.m.



www.abc.virginia.gov

MART Registration Form

Register on-line at www.abc.virginia.gov. You will receive an e-mail confirmation (if you enter your e-mail address) and directions. If you do not have Internet access, complete and mail your registration (form below) to MART/Education, Virginia ABC PO Box 27491, Richmond, Va. 23261 (Photocopies are accepted).

Name _____

Business Name _____

Phone _____ Fax _____

Address _____

City _____ State _____ Zip _____

MART training location, date and time _____

There is no cost for MART, but you are strongly encouraged to register early for the class to allow organizers time to order support materials. If you register and find that you cannot attend the training, consider sending someone in your place. If you must cancel, please call Virginia ABC at (804) 213-4671 at least a week before the scheduled class.

Space is limited, so each business is recommended to initially register no more than three people. If space is still available two weeks prior to the training, you are invited to send additional representatives. Please check the roster for each class at the ABC Web site at www.abc.virginia.gov. Space will be filled on a first come, first served basis.

Mail your registration to MART/Education, Virginia ABC, PO Box 27491, Richmond, Va. 23261.

Fall RSVP Training Classes...Coming Soon!!

Spots will be available in the September, October and November *Responsible Sellers/Servers: Virginia's Program* (RSVP) training classes. RSVP is a continual program offered quarterly in every region of Virginia. RSVP covers laws and administrative regulations that govern alcohol sales and consumption, detecting fake identifications, preventing intoxicated customers and managing confrontational situations.

Taught by ABC's special agents, the training is designed for bartenders, clerks, cashiers, waitstaff and other front-line employees. Visit the ABC Web site at www.abc.virginia.gov for more information.

Driver's License Guide

The Driver's License Guide Company publishes an annual edition of the ID Checking Guide that helps retailers, establishments and law enforcement agencies identify fake IDs. Every valid driver's license format is shown in actual size and full color for all 50 states and 10 Canadian provinces. The guide is a helpful tool to have on hand to review with staff.

You can order the guide from their Web site, www.idcheckingguide.com, or by calling (800) 227-8827. One book is \$22.95 plus shipping, but the price decreases for large quantity orders.

Retail Licensee Guides Available

The Retail Licensee Guide is a helpful tool to have on hand at your establishment to answer questions you or your staff may have on ABC laws and regulations. The guide focuses on areas that have involved the greatest number of licensee violations. To download a copy, please go to www.abc.virginia.gov/licensing/abcguide.htm, or e-mail Public Affairs at pubrel@abc.virginia.gov to request a copy. When requesting a guide through e-mail, remember to include your establishment's name and mailing address.

Ask ABC: Questions from the Field

"Ask ABC" is intended to provide answers to common and not-so-common questions that affect ABC retail licensees and their employees. This serves as an easy-to-use supplement to all of the education materials already offered through ABC, but is not a legal document and does not supersede the Code of Virginia, Virginia Administrative Code or any other statute.

Have a retail license question for ABC?

To submit a question to "Ask ABC," please e-mail your question to:
pubrel@abc.virginia.gov

Q. If a doorman is checking IDs at the door and allows a customer under the age of 21 into the establishment, could he or she be subject to any penalties if the customer is caught for underage drinking?

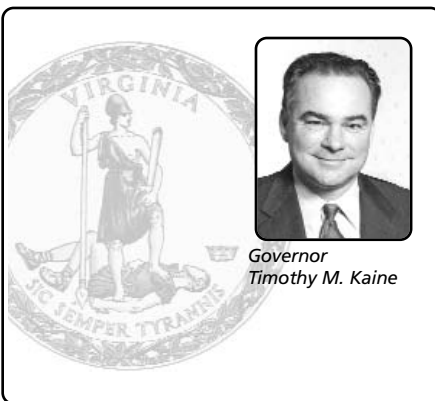
A. This is a legal question that relates to whether the doorman could be charged with aiding or abetting an underage person who obtains an alcoholic beverage after entering an establishment (§ 4.1-323 of the ABC Act). Simply allowing a person under 21 years of age to enter an establishment that sells alcohol would not constitute aiding and abetting and, therefore, would not subject the doorman to prosecution. The doorman would have to commit an overt act that assists the underage person in obtaining the alcoholic beverage.

Q. Is a store selling alcohol allowed to have a store manager under the age of 21?

A. A licensed establishment may appoint a person less than 21 years of age as a manager of the store's operations. However, Board Regulations require a licensee to have a "designated manager" on the premises at all times the business is open. No licensee shall knowingly permit a person under 21 years of age to act as a designated manager of the business. (3 VAC 5-50-40.C)

Q. What steps do I take if I wanted to extend my premises for a special event I am having?

A. A licensee who desires to extend its licensed privileges to an area not already approved needs to contact his/her local special agent. The licensee should submit a request in writing, outlining the additional area to be approved, along with written permission to use the area if it is not under the licensee's lease control. Also, if the licensee holds a mixed beverage license, the additional seating may increase the mixed beverage seating tax, which requires additional fees to be paid. Such extensions may be approved for no more than four days per calendar year, which may be consecutive. Further, the requirements for approval of this additional area may need to conform to the same requirements as outside terraces or patios (3 VAC 5-50-110(4)). The process for conducting such investigations and approvals is outlined in the Policies and Procedures Manual of the Bureau of Law Enforcement Operations (General Order No. O-005).



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